IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08/01/2003

Coram

The Hon'ble Mr. Justice P. SATHASIVAM

Writ Petition No. 697 of 2003
and
W.P.M.P.Nos. 846 and 847 of 2003

M. Arumugam. ..... Petitioner.

-Vs-

1. The District Revenue Officer,
Office of the Collectorate,
Salem District, Salem.

2. The Inspector of Police,
Civil Supplies C.I.D.,
Salem.

3. The Regional Manager,
Tamil Nadu Civil Supplies
Corporation Limited,
Siva Towers, Salem District, Salem-4. ..... Respondents.

Petition under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, as stated therein.

For Petitioner :: Mr. V. Balakrishnan

For Respondents 1 to 3 :: Mr. D. Krishnakumar, Special Govt., Pleader

:ORDER

The petitioner has filed the above Writ Petition for issuance of a Writ of Mandamus, directing the District Revenue Officer, Salem/first respondent herein to return 133 bags of rice seized from the lorry bearing Registration No. TN 60 0872, 137 bags of rice each 5 0 kilos and 23 bags of rice each 100 kilos by the 2nd respondent in Crime No. 165/2002 on 16-7-2002.

2. On direction, learned Special Government Pleader takes notice for respondents.

3. It is seen from the particulars furnished that the petitioner is a wholesale dealer possessing licence issued under TNETA (RT) Order, 1984 by the

District Supply Officer, Salem. It is stated that the petitioner for his wholesale business used to purchase commodities from the local dealers and other wholesale dealers of other districts in Tamil Nadu and for the purchases maintaining proper accounts for all the transactions done by the petitioner in the course of the business. He had purchased rice bags from Bhuvana Stores, which is carrying on business at No.62, Agraharam Shevapet, Salem. After purchase of the tender rice, he had sold 100 bags of rice as per Credit Bill No. 40, dated 5-7-2002 to M/s. Sri Maruthi Rice Industries, Shimoga, Karnataka State and despatched in a lorry bearing Registration No. TCE 3375 and the remaining rice the petitioner had sold 133 bags of rice each 75 kilos to M/s. Veerendra Traders Rice Merchants, Shimoga, Karnataka State on 16-7-2002, and the same was also despatched through lorry. While so, the second respondent without assigning any reason seized 133 bags of rice from the lorry bearing Registration No. TN 60 0872 and the remaining bags to an extent of 137 bags 50 kilos and 23 bags 100 kilos from the open yard of the Bye-pass Road and registered a case in Crime No.165/2002 for the contravention under clause 4 (1) and 19 (1) read with Section 7 (1) (a) (ii) of the E.C.Act and entrusted the rice bags at T.N.C.S.C. Godown, Salem for custody on 16-7-2002 alleging the rice belonged to Public Distribution rice. After the seizure, the petitioner has filed a petition before the first respondent for interim custody of the rice bags on proper security but no order was passed by the first respondent on the petition. Without passing orders on the petition, the first respondent is taking steps to dispose of the rice bags to Tamil Nadu Civil Supplies Corporation under Public Distribution system rice. Having no other effective remedy, filed the present writ petition praying for appropriate direction.

4. There is no dispute that the matter in issue is now pending before the first respondent/District Revenue Officer, Salem. It is also seen that the second respondent has seized the above mentioned bags of rice even on 16-7-2002. Only at this juncture, the petitioner has filed the present writ petition. The Special Government Pleader appearing for respondents 1 and 3, by relying a decision of the Apex Court in SHAMBHU DAYAL AGARWALA v. STATE OF W.B., reported in (1990) 3 Supreme Court Cases 549, would contend that no direction as claimed by the petitioner be granted. The Hon'ble Supreme Court, while considering Section 6-A of the Essential Commodities Act, 1955, has observed that the purpose of conferring power under Section 6-A (2) on the Collector to sell the seized commodity is to maintain the smooth supplies of essential commodities to the consumer public, avoid artificial shortages, maintain the price line and to secure equitable distribution thereof through fair price shops. To ensure that this objective of maintaining supplies and securing equitahle distribution of essential commodities is not defeated, the legislature has entrusted the task of the Collector in its entirety and has ruled out interference by courts, tribunals and other authorities by placing an embargo on their jurisdiction in this behalf by Section 6-E. It is also brought to my notice that following the said decision, this Court in several orders turned down similar requests made by the petitioners therein.
5. Taking note of the provisions referred to above and in the light of the decision of the Supreme Court, I do not find any valid ground to issue direction as claimed by the petitioner. It is not disputed that even if he succeeds before the concerned authority, he is entitled to get the market

value of the rice seized from him. In such a circumstance, I am of the view that there is no merit in the claim of the petitioner; consequently the writ petition is dismissed. The first respondent/District Revenue Officer, Salem is directed to complete the enquiry and pass appropriate orders in accordance with law one way or other, within a period of 3 (Three) months from the date of receipt of a copy of this order. Consequently, W.P.M.P.Nos. 846 and 847/2003 are dismissed.

R.B.

To-

1. The District Revenue Officer,
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2. The Inspector of Police,
Civil Supplies C.I.D.,
Salem.

3. The Regional Manager,
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